

Environmental Protection

Readoption with Amendments: N.J.A.C. 7:10A Licensing of Water Supply and Wastewater Treatment System Operators

**Date Posted:** January 22, 2001

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## **WATER SUPPLY ADMINISTRATION**

### **Licensing of Water Supply and Wastewater Treatment Operators**

**Adopted Amendments: N.J.A.C. 7:10A-1.1, 1.2, 1.3, 1.5, 1.9, 1.10, 1.14, 2.1, 2.5, 2.6, 2.7, and 2.8**

Proposed: July 3, 2000 at 32 N.J.R. 2279(b).

Adopted: September 11, 2000 by Robert C. Shinn, Jr., Commissioner, Department of Environmental Protection.

Filed: September 11, 2000 as R.2000 d.406, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 13:1D-1 et seq., 58:10A-1 et seq., 58:11-64 et seq. and 58:12A-1 et seq.

DEP Docket Number: 19-00-06/110.

Effective Date: October 2, 2000.

Expiration Date: December 31, 2001.

On July 3, 2000, the New Jersey Department of Environmental Protection (Department) proposed to amend N.J.A.C. 7:10A, which are the rules governing the examination and licensing of operators of water supply distribution and treatment systems and wastewater collection and treatment systems.

Notice regarding the proposal was also published on June 27, 2000 in the Times of Trenton, on June 28, 2000 in The Record of Bergen County, the Asbury Park Press, and The Star Ledger, on June 29, 2000 in the Press of Atlantic City and on July 1, 2000 in the Courier Post of Cherry Hill. Copies of the proposal were given to members of the Board of Examiners and The Advisory Committee on Water Supply and Wastewater Licensed Operator Training. The proposal was also made available via the internet through the Department's Water Supply Administration web page.

### **Summary of Hearing Officer's Recommendations and Agency Response:**

A public hearing regarding the proposal was held on July 19, 2000 at 10:00 A.M. at Thomas Edison State College, Large Conference Room, First Floor, Kelsey Building, 101 West State Street, Trenton, New Jersey. Joseph Miri, Ph.D., Chief of the Office of Water Policy, Water Supply Administration served as hearing officer. No one presented comments at the public hearing. Four persons submitted

written comments within the public comment period. Dr. Miri recommended that the rules be adopted with the changes described in the Summary of Public Comments and Agency Responses.

Interested persons may inspect the public hearing record by contacting:

New Jersey Department of Environmental Protection

Office of Legal Affairs

Attn: Docket Number 19-00-06/110

PO Box 402

Trenton, New Jersey 08625-0402

### **Summary of Public Comments and Agency Responses:**

The following persons submitted written and/or oral comments on the proposal:

1. DeSol, Henry J., Pioneer Metal Finishing Inc.
2. Osias, Gene S., Health Director, Vernon Township Health Department
3. Furrey, Michael, North Jersey District Water Supply Commission
4. Schneider, Lewis, North Jersey District Water Supply Commission

A summary of the comments timely submitted and the Department's responses follows. The number(s) in parentheses after each comment corresponds to the commenter(s) listed above.

### **Subchapter 1. Water Supply and Wastewater Collection and Treatment Systems: Examining and Licensing of Operators**

1. COMMENT: Regarding the continuing education requirement to start October 1, 2003 for Industrial Wastewater Licenses, if a small company has a small pretreatment system, has no discharge of process water from the plant and has been conducting the same activity for over 20 years, it should not be required to attend a 13-week class that will not even touch on the simple pretreatment performed. (1)

RESPONSE: The continuing education requirements for water and wastewater license renewal will begin on October 1, 2000. These requirements apply to all water and wastewater licensees and not to the system itself. Continuing education requirements range from 18 Training Contact Hours (TCHs) for Class 1 and 2 licensees and 36 TCHs for Class 3 and 4 licensees. There is no 13-week continuing education requirement imposed upon any licensees.

2. COMMENT: If a company is using a standard water softener for a nontransient noncommunity water system using groundwater, a 13-week course will not teach anything that will better "protect the public." Exemptions should be allowed for all companies that fit this condition. (1)

RESPONSE: The February 5, 1999 USEPA, "Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems," provides that states "must require owners of all community and nontransient noncommunity water systems to place the direct supervision of their water system ... under the responsible charge of an operator(s) ..."

Therefore, the states must require licensed operators for all public community and public nontransient

noncommunity water systems (even those without treatment). There is no provision to allow an exemption from the licensed operator requirement for any system. To make the requirements more reasonable for those nontransient noncommunity water systems which either have no treatment or have limited treatment, the proposed amendments created a Very Small Water System (VSWS) license category. An applicant for a VSWS license must at a minimum have a high school diploma and six months of experience. In addition, the applicant must attend a 13-hour VSWS introductory course and pass a VSWS operator examination. While the VSWS license requirements are less stringent than the requirements for other water license classifications, the Department believes that the 13-hour introductory course and the examination requirement will ensure the individual competency needed for an operator of such a system.

3. COMMENT: A water system will not be able to hire a licensed operator for less than \$400.00 a month; \$500.00 a month is a more realistic estimate. This will cost New Jersey business owners between \$4,800 and \$6,000 a month. With approximately 1,000 systems affected, the total cost is between \$4,800,000 and \$6,000,000. This economic burden is too great and should not be mandated by the State. (2)

RESPONSE: The estimated monthly operator fees in the "Economic Impact" statement were determined by asking existing licensed water operators, at seminars throughout the State of New Jersey, what they would charge for the supervision of a nontransient noncommunity water system. The responses ranged between \$100.00 and \$400.00 a month. Most responses were \$300.00 a month.

There are approximately 950 nontransient noncommunity water systems in the State of New Jersey. About one-half of these are private entities. The other half are either public schools or other governmental agencies.

The United States Environmental Protection Agency (USEPA) believes that one of the most important benefits of the Federal guidelines will be better training for operators of small systems, and, consequently, better health protection for the consumers served by these systems. Historically, compliance problems are much more widespread in smaller systems and it is those systems that may benefit most with trained operators. Congress also recognized this when it established the operator certification provisions. Congress was aware that most states already had operator certification programs and that many exempted small systems. Congress was particularly concerned that the lack of operator training and certification for small systems could create compliance problems. In addition, monitoring and sampling done by a trained operator are more likely to produce accurate results and be correctly interpreted. (See USEPA, "Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems.") These concerns were central to the enactment of the operator certification provisions. At the same time, money was made available for the training and certification of small system operators.

The Department recognizes the cost of compliance for small systems. In order to reduce this burden, the Department is adopting amendments to:

(a) Create a new Very Small Water System (VSWS) license classification, which allows existing owners and employees, who demonstrate competency, to operate those nontransient noncommunity water systems with relatively simple treatment facilities. Such a water system would not have to incur the expense of contracting with an outside operator to run the system; and

(b) Subsidize the costs of training and testing for those persons seeking a VSWS license.

In the July 20, 2000 Federal Register, the USEPA had published a proposal to reimburse the costs of training, including an appropriate per diem for unsalaried operators, and certification for persons operating community and nontransient noncommunity public water systems serving 3,300 persons or fewer that are required to undergo training pursuant to the USEPA's operator certification guidelines. Although the details have not yet been worked out, the USEPA plans to provide such funding through grants to the individual states. The states will then determine how the funding is provided to the operators.

4. COMMENT: A business owner could become a licensed operator. However, a 13-hour course is needed. This would require a business owner to spend two days at a course. The cost of losing two days plus one day to take the exam must be calculated. In addition, the expense of taking 12 hours of continuing education every three years must be calculated. Loss of revenue to business owners because of continuing education is not considered. Approximately 13,000 man hours are needed for all business owners to receive training plus an additional 5,000 hours to take the exam and approximately 12,000 hours every three years for continuing education. This does not include travel time. (2)

RESPONSE: The Department recognizes that there may be a cost to business owners for the time spent in attending training and testing for operator certification requirements. However, the Federal guidelines were designed to result in better training for small system operators and consequently, better health protection for the consumers served by these systems.

The Department did not try to estimate the cost to a business owner for time needed to attend courses or to take an exam. This would be extremely difficult since the Department would have to know a variety of items such as the revenues of affected businesses and whether each business could operate when the owner was absent.

For funding small system operators, the USEPA has proposed a grants program to reimburse the costs of training, including an appropriate per diem for unsalaried operators, and certification for persons operating community and nontransient noncommunity public water systems serving 3,300 persons or fewer. Details of the proposed program can be found in the July 20, 2000 Federal Register.

5. COMMENT: Under the VSWS definition, a public community water system using any treatment including a home style ion exchange unit could not have a VSWS licensed operator but is required to have "T" licensed operator. This needs to be amended. (2)

RESPONSE: A public community water system using ion exchange is required to have a "T" licensed operator under existing rules. The VSWS license classification extends the licensed operator requirement to those public community water systems without treatment and those public nontransient noncommunity water systems with either no treatment or relatively simple treatment. These systems were not previously required to have licensed operators. Neither the EPA guidelines nor the proposed State rule amendments were intended to relax existing State regulations governing licensed operators for public community water systems.

The Federal guidelines specifically include an "antibacksliding" provision. Specifically, the guidelines indicate that, "Because these guidelines represent only minimal standards, it is expected that States whose current operator certification program requirements go beyond or exceed these minimum standards not lower their operator certification program requirements. EPA will not approve the operator certification program of any State that reduces its standards below the level that existed 12 months prior to the effective date of these guidelines unless the reduction can be justified by the State and is approved by the EPA."

6. COMMENT: The definition of a public nontransient noncommunity water system qualifying for a VSWS license is confusing. A home style water softener (ion exchange unit) requires chemical addition (calcium chloride) to regenerate the media. Would they need a "T" license? (2)

RESPONSE: The VSWS license definition specifically allows for the operation of homestyle ion exchange unit (or "water softener") by a public nontransient noncommunity water system. This system does not need a "T" licensed operator.

7. COMMENT: Under the VSWS definition, the use of a simple sediment cartridge filter would require a higher license. The higher the license, the greater is the economic impact. (2)

RESPONSE: A public nontransient noncommunity water system using simple in-line sediment cartridge filters can be under the direct supervision of a VSWS operator. Such systems can also be under the direct supervision of a "T" or "W" licensed operator.

8. COMMENT: The cost of enforcement is greatly increased under this proposed regulation. While it is noted that the DEP will lose 20 percent of EPA Drinking Water Revolving Funds, allocated to the State, there is no mention of the need for the increased manpower on a local level required for the additional time needed for inspections and enforcement. A local program cannot be run on anticipated fines assessed against local business owners. It is our function to ensure the business owner complies and there is no need for fines and penalties. Funding must be provided to hire the needed health department personnel. (2)

RESPONSE: The Department does not anticipate that the proposed operator certification program for nontransient noncommunity water systems will significantly increase the cost of enforcement. A check on the operator can be done during the normal inspection of the water system. In addition, having a knowledgeable person available during the time of inspection should ease a compliance review.

The State of Massachusetts, which now requires licensed operators for all noncommunity water systems, indicates that this requirement has increased system compliance with the Safe Drinking Water Act. The Department anticipates that this will also be the result for nontransient noncommunity water systems in the State of New Jersey. This will decrease the need for enforcement actions.

9. COMMENT: Losing 20 percent of USEPA funding, by not implementing these guidelines, is preferable to the economic impact that these regulatory changes will have on local businesses and health departments. (2)

RESPONSE: The Department recognizes that the commenter's opinion might be shared by others in the regulatory community. However, although the Department recognizes the costs associated with complying with these regulations, the Department believes that compliance with the Federal guidelines is appropriate because:

- (a) Such action will, overall, result in better training for small system operators and consequently, better health protection for the consumers served by these systems; and
- (b) Use of Federal funding, will significantly reduce the costs of training and certification of small system operators and help assure better Safe Drinking Water Act compliance.

10. COMMENT: The definition of Very Small Water System should be revised to read:

- i. A public community water system that serves 100 or fewer dwellings or properties, which does not use disinfection treatment; or
- ii. A public nontransient noncommunity water system. (2)

RESPONSE: The suggested VSWS definition for public community water systems relaxes the current standards. N.J.A.C. 7:10A-1.14 currently provides that any public community water system using treatment is classified as a "T1" to "T4" water system. Therefore, the Department cannot utilize the suggested definition because of the Federal guidelines "antibacksliding" provision. This provision provides that, because the Federal guidelines represent only minimum standards, the USEPA expects states whose current operator certification program requirements go beyond or exceed the minimum standards not lower their operator certification program requirements. The USEPA will not approve the operator certification program of any state that reduces its standard below the level that existed 12 months prior to the effective date of the guidelines unless the reduction can be justified by the state and is approved by the USEPA.

The Department cannot utilize the suggested VSWS definition for nontransient noncommunity water systems because the Federal guidelines require that a state's program must classify all community and nontransient noncommunity public water systems based on, amongst other things, the complexity and size of the treatment facilities. The suggested VSWS definition for nontransient noncommunity water systems does not classify those systems on the basis of treatment complexity. In addition, the suggested definition does not recognize the current State requirement that any noncommunity water system using surface water must be under the supervision of an appropriate "T" licensed operator.

11. COMMENT: The Department should create an owner/operator classification which would allow only an owner of a water system to qualify for a license. No other qualification would be necessary in order to take an exam. The license would not be valid on any system other than the one owned by the business owner. As businesses are sold, the new owner would be eligible. (2)

RESPONSE: The Department's rules applicable to the licensing of operators require a combination of experience, training and testing to assure that properly qualified operators are supervising the operation of water and wastewater systems. Therefore, experience, training and testing components were included in the creation of a VSWS license classification as well. In the past, the Department had allowed site specific licenses for some wastewater facilities. However, the Department's experience was that such licenses created confusion in the regulated community.

In addition, the suggested owner/operator classification would limit an owner's options in hiring an operator for his or her water system and the classification would preclude a qualified employee, who actually makes the process control decisions for the facility, from becoming a licensed operator. The result could be to limit the number of qualified operators and raise the regulatory cost for the system's owner.

12. COMMENT: N.J.A.C. 7:10A-1.5 needs to be revised to require the Department to develop a home study course, which would take approximately eight hours to complete, for this owner/operator license. After studying the material, which would include information on water testing requirements, the regulations and parameters needed to be tested, the owner/operator would submit the completed exam to the Department by mail. Upon receiving a passing grade, the license would be issued. (2)

RESPONSE: The Department investigated whether a home study course, with associated testing, was adequate as a prerequisite for a VSWS license. Some states do allow home study courses with associated exams to obtain licenses. However, one state has reported concerns about the security of correspondence courses with the lack of a proctored exam. In addition, the State of New Jersey has historically required classroom training and proctored examinations in order to obtain a water or wastewater license. After consultation with New Jersey's Advisory Committee on Water Supply and Wastewater Licensed Operator Training, the Department determined that a classroom course was the best way to prepare an applicant to both (a) pass the VSWS license test, and (b) properly operate a VSWS classified water system.

13. COMMENT: The owner/operator license should be revised to require five TCHs of continuing education every three years. This would also include home study to be successfully completed to receive credit for the training. (2)

RESPONSE: The VSWS continuing education requirement of 12 TCHs every three years was established with consideration for the Class 1 to Class 4 licenses' continuing education requirements, which were supported by both the New Jersey Section of the American Water Works Association and the New Jersey Water Environment Association.

The VSWS license continuing education requirement breaks down to approximately four training hours a year and was determined to be the minimum necessary in order to maintain competency in that license classification requirement. Although the Department has not yet approved any home study courses for continuing education, approval of such courses is not precluded, if they are consistent with the criteria established by the regulations.

14. COMMENT: The regulations as currently proposed will result in a great economic burden. As a consequence, cooperation from the owners of the water system will decrease and therefore result in a decrease in a quality of the water the public receives. (2)

RESPONSE: The Department believes that having a competent, trained, licensed operator directly supervising a public water system will increase compliance and provide better health protection for consumers at these water systems. As stated previously, in order to alleviate some of the costs associated with these amendments, the Department has allocated funds to significantly reduce the costs to train for a VSWS license and eliminate the application fee associated with applying and testing for a VSWS license.

15. COMMENT: Establishing an owner/operator license, which can be received through home study, will reduce the costs, increase cooperation and increase knowledge of the system, regulations and sampling requirements and what the sample results mean, thus accomplishing the goals of the Department. (2)

RESPONSE: The Department believes that the proposed amendments, as presently designed, will minimize costs to affected systems while fully complying with the Federal guidelines. The issue of a home study course to obtain a license was addressed in the Response to Comment 12.

16. COMMENT: N.J.A.C. 7:10A-1.5(a)6 should state that the Advisory Board is **required to approve** courses for TCHs. (3)

RESPONSE: Under N.J.S.A. 58:11-64, New Jersey's law applicable to the "Licensing of Water Supply and Waste Water Operators," the Board of Examiners was established to assist the Department in administering the licensing program also established pursuant to that law. The Board could also make recommendations to the Department regarding the improvement of programs and regulations. In accordance with this law, the Commissioner could also establish advisory bodies necessary to implement and administer an adequate licensing program. N.J.A.C. 7:10A-1.5 specifically provides that the Advisory Committee on Water Supply and Wastewater Operator Training is established to: "Advise the Department through the Board on such matters as are referred to the Committee by the Department or Board with respect to the instructional process leading to State licensing of system operators and for the further educational advancement of licensees." As amended, N.J.A.C. 7:10A-1.5(a)1 continues the requirement that the Advisory Committee advise the Department on such matters which relate to the further educational advancement of licensees. The Department considers these recommendations when it establishes the requirements for continuing education.



17. COMMENT: At N.J.A.C. 7:10-1.9(e), the Department should provide a system to track TCHs through an automated computer process. This would assist organizations such as NJAWWA and NJWEA by providing a valuable service to their membership. In addition, a licensed operator should still be required to demonstrate compliance for obtaining the required TCHs even if he or she has obtained a license within the first three years. (3)

RESPONSE: The Examinations and Licensing Unit within the Department has pursued the use of a computer system in order to track licensees' TCHs. However, this is part of the overall Department effort to develop a comprehensive data management, referred to as the New Jersey Environmental Management System (NJEMS). NJEMS, which will provide the capability to track TCHs, is not yet in place. Therefore, for the first three year training tracking period, the Department anticipates using an audit type system for determining if individual licensees have obtained the required number of TCHs for license renewal.

For each water and wastewater license classification there is a specific number of TCHs which must be obtained within any three year training tracking period. If a licensed operator obtains a license within the three year tracking period, the newly licensed operator would have less than the normal three year period to obtain the required TCHs. In an extreme case, such an operator could get a license near the end of a three year training tracking period and then be unable to renew the license because of failure to obtain the required number of TCHs. In order to avoid this difficulty, the Department decided that a licensee must hold a license for the full three year training tracking period in order to be required to demonstrate TCHs for license renewal.

18. COMMENT: At N.J.A.C. 7:10A-1.10(f), Class 4 treatment systems should have a licensee possessing any valid treatment license within the appropriate system classification, physically present at the treatment system during that portion of each 24 hour period when the licensed operator is not present. The word "should" must be changed to "shall." The rationale for this can be found in the "Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Public Water Systems" published on February 5, 1999 by the USEPA which states (at section C, Baseline Standards #2) "It must require that all operating personnel making process control/system integrity decisions about water quality or quantity that affect public health be certified." In addition the guidelines state "It must require that a designated certified operator be available for each operating shift." (3)

RESPONSE: At this time, the Department did not perceive the need to require (rather than recommend) that a Class 4 system have a licensee possessing any valid treatment license physically present at the treatment plant for that portion of the 24 hour period when the licensed operator is not present because by having (1) readily available written detailed operations and maintenance procedures, (2) a system protocol to ensure that each employee associated with the system is acquainted with his or her individual responsibilities and obligations, including the protocol to be followed in the event of an emergency within the system, and (3) other related measures as indicated in existing regulations, the

licensed operator effectively makes all process control and system integrity decisions whether on site or not. The Federal Guidelines indicating that a designated certified operator be available for each operating shift does not mean that a licensed operator needs to be on site during all hours of operation.

19. COMMENT: N.J.A.C. 7:10A-1.10(f)2 provides that a written request for an exemption from the full-time operator requirement pursuant to this subsection must be submitted to the Examination and Licensing Unit. A written request should also be submitted to the Bureau of Safe Drinking Water. (3)

RESPONSE: Requests for this exemption apply to public water, public wastewater and industrial wastewater facilities. Therefore, it is inappropriate that all such requests also be submitted to the Bureau of Safe Drinking Water. However, it is incumbent upon the Examination and Licensing Unit to direct such requests to the appropriate Bureau within the Department upon receipt.

20. COMMENT: N.J.A.C. 7:10A-1.10(i) provides that the owner of a system employing a new licensed operator shall submit written notification to the Examination and Licensing Unit. It is suggested that such notification should also be submitted to the Bureau of Safe Drinking Water. (3)

RESPONSE: The notification requirements apply to public water, public wastewater and industrial wastewater facilities. Therefore, it is inappropriate that all such requests also be submitted to the Bureau of Safe Drinking Water. However, the Examination and Licensing Unit directs such notifications to the appropriate Bureau within the Department upon receipt.

21. COMMENT: How are the future new Interim Enhanced Surface Water Treatment Rule (IESWTR) reporting requirements for providing turbidity exception reports for filtration plants (combined and individual filter turbidity profiles) included in these regulations? (3)

RESPONSE: Reporting requirements are already covered under the State Primary Drinking Water Regulations, at N.J.A.C. 7:10-5.4.

22. COMMENT: N.J.A.C. 7:10A-1.12 should include a provision for electronic reporting under the Safe Drinking Water Act (SDWA) regulations, N.J.A.C. 7:10-5.4, which provide the beginning, "...January 1, 1999, each supplier of water shall ensure that all compliance sampling reports are submitted to the Department electronically in a manner compatible with Department computer system either by diskette or by direct electronic transmission." (3)

RESPONSE: The requirements for electronic data submission is already covered under N.J.A.C. 7:10-5.4 and does not need to be repeated under N.J.A.C. 7:10A. That provision has been revised, on adoption (see 32 N.J.R. 3106(a)), to state that, "[w]ithin 180 days of receipt of written notification from the Department, each supplier of water shall ensure that all compliance sampling reports are submitted to the Department electronically in a manner compatible with Department's computer system." Therefore, no water supplier is required to supply this information now, but will be so required after notice is given as provided. Once an appropriately designed system is developed and in place, water suppliers will be notified of its availability and will be provided instruction for its use and the required format for submitting electronic compliance reporting.

23. COMMENT: The accumulation of TCHs for continuing education refers to Licensed Operator only (N.J.A.C. 7:10A-1.9(d)). Is this the intent of the revision or is the intent to apply this requirement to all licensees? (4)

RESPONSE: It was, at the time of proposal, and remains the Department's intent to require all licensees accumulate TCHs instead of just licensed operators. This was expressed by the Department in the Summary of the rule proposal (see 32 N.J.R. 2279(b), at 2280). The Department stated that it:

...proposes to establish training requirements for operator license renewal based upon classification level. Continuous education requirements for license renewal are supported by the New Jersey Section of the American Water Works Association and the New Jersey Water Environment Association.

The continuing training requirement is based upon the Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems, established by USEPA and published in the Federal Register on February 5, 1999 (Volume 64, Number 24, Page 5915-5921) which provide that:

The State must establish a training program for renewal of certification based upon the level certification held by the operator. The States must require all operators ... to acquire necessary amounts and types of State approved training.

The Federal Guidelines refer to all holders of a license to operate these systems as "operators." These guidelines also make it clear that the continuing education requirements must be placed as a condition of all licenses for these systems. Upon proposal of this continuing education requirement, the Department used a similar term and proposed to impose the requirement upon "licensed operators." As stated above, however, the intent of the proposal was to impose the continuing education requirement upon all licensees as a condition of license renewal. The Department believes that this intent was clear from the references set forth in the Summary at the time of proposal and that it is also clear from the context of the rule and the nature of the regulatory program generally. As adopted at N.J.A.C. 7:10A-1.2, a license is defined as "... a certificate of competency issued by the Department, stating that the holder has met the requirements of a particular system classification." Additionally, the amended rule as adopted at N.J.A.C. 7:10A-1.10 sets forth each particular system which a licensee is authorized to operate by each specific license. If the rule were to limit the continuing training requirement to licensed operators as defined by the rule instead of imposing it upon all licensees as a condition of license renewal, this would mean that any licensee who does not complete continuing training would not be allowed to operate the system for which his or her specific license was issued. This would result in the creation of a separate class of licensees who would actually be prohibited from doing the very thing that is supposed to be authorized by the license. Accordingly, the Department believes that this impractical and absurd result could not and should not be seriously considered by anyone as a possible intent of the

proposed amendments. Therefore, in N.J.A.C. 7:10A-1.9, the requirement to accumulate TCHs has been changed, upon adoption from licensed operator to licensees.

**Summary of Agency-Initiated Changes:**

The Department has modified N.J.A.C. 7:10A-1.9(d)1, on adoption, to provide that any seminar, workshop, training course, college course approved by the International Association of Continuing Education and Training (IACET) is approved by the Department for the purposes of accumulating TCHs if such training is related to the water and/or wastewater field. This change is a simple clarification of the obvious intent of the requirement. The Department believes that inherent in any program of continuing training, where such training is a condition of license renewal, there is an understanding that the training must be related to the subject matter of the license. IACET, however, approves a great many courses, some of which are not related to the water and/or wastewater field. Therefore, in order to avoid any confusion, the Department has, upon adoption, added language making it clear that any such training must be related to the subject matter.

In addition, the Department is modifying N.J.A.C. 7:10A-1.9(d)2, on adoption, to provide that the Department shall review and approve, on an individual case basis, any other seminar, workshop, training course, college course or other means of training which the Department determines substantially complied with the criteria used for the approval of such seminar, workshop, training course, college course or other means of training by IACET. As proposed, this paragraph provides that, for purposes of accumulating Training Contact Hours, any seminar, workshop, training course or college course approved or substantially equivalent to any approved by IACET is acceptable to the Department. By making the above referenced change upon adoption the Department is making it clear that in order to determine if a training course is substantially equivalent to one approved by IACET, the Department will use the same criteria IACET uses to evaluate and approve such courses.

**Federal Standards Statement**

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. require State agencies which adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a comparison with Federal law.

The 1996 Federal Safe Drinking Water Act amendments required the United States Environmental Protection Agency (USEPA) to publish guidelines specifying minimum standards for certification (and recertification) of the operators of community and nontransient noncommunity public water systems. On February 5, 1999, USEPA published in the Federal Register final "Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems." The guidelines provided the states with the minimum standards for the development, implementation and enforcement of operator certification programs for community and nontransient noncommunity public

water systems. Beginning two years after publication (February 5, 2001), the USEPA will withhold 20 percent of a state's Drinking Water State Revolving Fund capitalization grant funds unless the state has adopted and is implementing an operator certification program that meets the requirements of the published guidelines. These adopted regulatory amendments are in accordance with the USEPA guidelines, as published, and they contain no requirement or standard which exceeds Federal guidelines.

**Full text** of the adoption follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks \*[thus]\*):

SUBCHAPTER 1. WATER SUPPLY AND WASTE-WATER COLLECTION AND TREATMENT SYSTEMS:  
EXAMINING AND LICENSING OF OPERATORS

7:10a-1.1 Scope and construction of rules

(a) This chapter shall constitute the rules governing the eligibility, examining, and licensing of persons as operators of Industrial Wastewater Treatment Systems, Public Wastewater Collection Systems, Public Wastewater Treatment Systems, Public Water Treatment Systems, Public Water Distribution Systems and Public Non-Community Surface Water Treatment Systems.

(b) - (c) no change

(d) Notwithstanding any provision of this chapter to the contrary, this chapter shall not apply, until October 1, 2003, to any public community water system, which serves 100 or fewer dwellings or properties and which does not use treatment, or to any nontransient noncommunity water system that does not use surface water.

7:10A-1.2 Definitions

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.

. . .

"Classification" means the level of operation for a system, specifically, VSWS, 1, 2, 3 or 4, as determined pursuant to N.J.A.C. 7:10A-1.14.

. . .

"Division" means the Division of Revenue in the Department of Treasury.

"Examination and Licensing Unit" means the unit within Contract and Administrative Operations in the Department of Environmental Protection, PO Box 441, Trenton, New Jersey 08625-0441.

. . .

"License" means a certificate of competency, issued by the Department, stating that the holder has met the requirements of a particular system classification.

. . .

"Public Water Distribution System" means a system comprising structures which is a public community water system or a public nontransient noncommunity water system identified by a specific ID number pursuant to the Safe Drinking Water Act Regulations, N.J.A.C. 7:10, and which operating alone or with other structures, results in the derivation, conveyance (or transmission) or distribution of piped water for human consumption and domestic purposes.

. . .

"Training contact hours (TCHs)" means the hours of training a licensed operator has received through a seminar, workshop, training course, college course or other means as approved by the Department.

. . .

"Very Small Water System (VSWS)" means:

1. A public community water system, that serves 100 or fewer dwellings or properties, that does not use treatment; or
2. A public nontransient noncommunity water system which does not use treatment or uses treatment in the form of disinfection, home style ion exchange units or any other treatment that does not require chemical addition, process adjustment, backwashing, media regeneration (for example, calcium carbonate filters, granular activated carbon, cartridge filters).

#### 7:10A-1.3 Examining Board

(a)-(d) (No change.)

(e) The Board shall keep minutes of its meetings and it shall transmit its recommendations through the Administrator, General Services to the Commissioner.

#### 7:10A-1.5 Advisory committee on training

(a) An Advisory Committee on Water Supply and Wastewater Licensed Operator Training is hereby established to:

1. (No change.)
2. Coordinate the activities of New Jersey educational institutions offering or proposing to offer appropriate coursework;
3. Establish and periodically update standardized course outlines for the educational training of the operators of water supply and wastewater facilities leading to State licenses and specifying a minimum number of classroom hours for each;
4. Periodically review available textbooks in the field of water supply, water treatment and wastewater treatment, and make recommendations for standard textbooks which should be used for approved courses;

5. Act as a clearing house on matters affecting water supply and wastewater licensee training in New Jersey; and

6. Review and make recommendations to the Department regarding those seminars, workshops, training courses, college courses or other means, which are acceptable as credit toward training contact hours for license renewal.

(b)-(d) (No change.)

(e) Administrative support for the Advisory Committee shall be provided by the Examination and Licensing Unit.

#### 7:10A-1.9 License renewal requirements

(a) (No change.)

(b) Each license holder shall renew his or her license by submitting a complete renewal application and the nonrefundable annual license fee to the Division, for a new license prior to September 30, of each year.

(c) (No change.)

(d) As of October 1, 2000, all \*[licensed operators]\* **\*licensees\*** shall accumulate TCHs to meet the continuing education requirements for license renewal. Effective October 1, 2003, all \*[licensed operators]\* **\*licensees\*** shall demonstrate to the Board that they have completed the required number of TCHs, within the prior three year period, for license renewal. Every three calendar years after October 1, 2003 (that is, October 1, 2006, October 1, 2009, October 1, 2012, etc.), a \*[licensed operator]\* **\*licensee\*** shall demonstrate that he or she has completed the required number of TCHs, within the prior three year period, for license renewal. The TCH's requirements are as follows:

<u>License Classification</u>	<u>Training Contact Hours</u>
3 and 4	36
CN, NS, NN, 1 and 2	18
VSWS	12

1. For purposes of accumulating TCHs pursuant to this chapter, any seminar, workshop, training course or college course **\*related to the water and/or wastewater field and\*** approved by the International Association for Continuing Education and Training is approved by the Department.

2. The Department shall review and approve, on an individual case basis, any other seminar, workshop, training course, college course or other means of training, **\*related to the water and/or wastewater field,\*** which is determined \*[to be substantially equivalent to]\* **\*which the Department determines substantially meets the criteria used by the International**

**Association for Continuing Education and Training for approval\*** a seminar, workshop, training course, college course approved by the International Association for Continuing Education and Training.

(e) A \*[licensed operator]\* **\*licensee\*** who has been licensed for less than three years is not required to demonstrate that he or she has completed the required number of TCHs. If a license upgrade is approved within the three year period, the TCH requirement for the lesser classification shall apply. TCHs are required for all water (T, W \*[\*&]\* **\*and\*** VSWS) and wastewater (S, C, N, NS, CN, NN) licenses. Any TCHs approved for a water license applies to all water licenses. Any TCHs for a wastewater license applies to all wastewater licenses. A \*[licensed operator]\* **\*licensee\*** who holds both water and wastewater licenses shall obtain the required number of TCHs for each category of license.

#### 7:10A-1.10 Licensed operator required; exemptions

(a) Unless exempted pursuant to (c) below, every owner of a system shall employ a licensed operator holding the license prescribed by the Department for that classification of system as follows:

1. S licenses are licenses to operate a public wastewater treatment system.
2. C licenses are licenses to operate a public wastewater collection system.
3. T licenses are licenses to operate a public water treatment system. A T licensed operator may operate any VSWS.
4. W licenses are licenses to operate a public water distribution system. A W licensed operator may operate any VSWS.
5. N licenses are licenses to operate an industrial wastewater treatment plant.
6. NS licenses are licenses to operate an industrial wastewater treatment system consisting only of an oil water separator or a sedimentation unit.
7. CN licenses are licenses to operate only the public wastewater collection system which a person was operating on July 2, 1984. A CN license is restricted to a particular system, permits the operator to continue operating only that system, and shall not be used to meet the licensed operator requirements for any other system.
8. NN licenses are licenses to operate an industrial wastewater treatment system which a person was operating with a valid S-In license on July 2, 1984. However, the NN license shall not be used to meet the licensed operator system requirements for any other system
  - i. S-In licenses were licenses to operate industrial wastewater treatment systems. These licenses were discontinued effective July 2, 1984.
9. VSWS licenses are licenses to operate:
  - i. A public community water system, which serves 100 or fewer dwellings or properties, and which does not have treatment; or



ii. A public nontransient noncommunity water system which has no treatment or treatment in the form of disinfection, home style ion exchange units or any other treatment which does not require chemical addition, process adjustment, backwashing, media regeneration (for example, calcium carbonate filters, granular activated carbon, cartridge filters).

(b) The licensed operator shall be in charge of the operation of the system.

1. If a system is reclassified by the Department, the licensed operator of the reclassified system may continue as the licensed operator of that system, regardless of the new classification of that system, except that a VSWS licensed operator shall not operate a system reclassified so that it requires a T or W licensed operator.

Recodify existing (b) and (c) as (c) and (d) (No change in text.)

(e) A holder of an NN license shall serve as the licensed operator only at the system for which the NN license was issued.

(f) (No change in text.)

(g) Unless exempted pursuant to (g)1 through 3 below, class 3 treatment systems and class 4 treatment systems shall have the appropriate full-time licensed operator. In addition, class 4 treatment systems should have a licensee possessing any valid treatment license within the appropriate system classification, physically present at the treatment system during that portion of each 24 hour period when the licensed operator is not present.

1. (No change.)

2. A written request for an exemption pursuant to this subsection shall be submitted to the Examination and Licensing Unit and shall include the following:

i.-vi. (No change.)

3. (No change.)

(h) (No change in text.)

(i) Licensed operators shall notify the Examination and Licensing Unit at least two weeks prior to changing their positions or employment.

(j) The owner of a system employing a new licensed operator shall notify, in writing, the Examination and Licensing Unit of the name of the new licensed operator within two weeks after the licensed operator begins his or her employment.

(k) (No change in text.)

#### 7:10A-1.14 System classification

(a) Public wastewater treatment systems (S), public water treatment systems, or public non-community surface water treatment systems (T, VSWS), industrial wastewater treatment systems (N), public wastewater collection systems (C) and public water distribution systems (W, VSWS) shall be

classified into one of the classes established in (b)1 through 5 below at Table I(S), Table I(T), Table I(N), Table I(C) and Table I(W), respectively.

1. Except for VSWS, the Department shall assign points to each public wastewater treatment system (S), public water treatment system or public non-community surface water treatment system (T), and industrial wastewater treatment system (N) for every item in (c) below that applies. The classification of each system as determined by (b)1 through 3 below shall be based upon the total number of points assigned to it in accordance with (c)1 through 3 below in Table II(S), Table II(T) or Table II(N), respectively.

2. -4. (No change.)

(b) Systems are classified in accordance with the following tables:

1. (No change.)

2. The classification of public water treatment systems or public noncommunity surface water treatment systems (VSWS or T) is as follows:

i. "Very Small Water System (VSWS) as defined at N.J.A.C. 7:10A-1.10.

ii. Table I(T)

<u>System Class</u>	<u>T1</u>	<u>T2</u>	<u>T3</u>	<u>T4</u>
Range of points as determined under (c)2 below	30 or less	31 to 55	56 to 75	76 and greater

3.-5. (No change.)

(c)-(d) (No change.)

7:10A-1.15 Criteria needed to take the examination for each license

(a) Persons applying to take an examination for a Very Small Water System (VSWS), public wastewater treatment system (S), public water treatment system or public non-community surface water treatment system (T), public wastewater collection system (C) or public water distribution system (W) license shall meet the following requirements and possess the minimum education and experience requirements for the license applied for found in Table IIIA in (b) below.

1. Persons applying to take any examination and holding no degree higher than a high school diploma or not holding an associates degree, as defined at N.J.A.C. 7:10A-1.2, shall have successfully completed an introductory course approved by the Department in the subject matter pertaining to the license being sought, prior to applying to take the examination.

2. (No change.)

3. Any of the courses required above may be waived if the applicant submits satisfactory proof of equivalent training to the Department.

i. (No change.)

(b) Minimum admission requirements for the licensing examination for VSWS, S, T, C, and W treatment system licenses are as follows:

Table IIIA

<u>Personnel Classification</u>	<u>Education</u>	<u>Operating experience (years)</u>	<u>Direct responsible charge experience (years)</u>	<u>Total experience (years)</u>
VSWS	High School Diploma or equivalency certificate:	6 months	0	6 months
	Associates Degree:	6 months	0	6 months
	Bachelors Degree category:	6 months	0	6 months
Classification 1	High School Diploma or equivalency certificate:	1	0	1
	Associates Degree:	1	0	1
	Bachelors Degree:	1	0	1
Classification 2	High School Diploma or equivalency certificate:	3	0	3
	Associates Degree:	2	0	2
	Bachelors Degree:	1.5	0	1.5
Classification 3	High School Diploma or equivalency certificate:	3 plus	3	6
	Associates Degree:	2 plus	2	4
	Bachelors Degree:	1.5 plus	1.5	3
Classification 4	High School Diploma or equivalency certificate:	6 plus	4	10
	Associates Degree:	4 plus	3	7
	Bachelors Degree:	3 plus	2	5

(c)-(d) (No change.)

## SUBCHAPTER 2. CIVIL ADMINISTRATIVE PENALTIES, INJUNCTIVE RELIEF, SUSPENSION AND REVOCATION OF OPERATOR'S LICENSE, DENIAL OF AN APPLICATION TO RENEW A LICENSE AND REQUESTS FOR ADJUDICATORY HEARINGS

### 7:10A-2.1 Purpose

This subchapter establishes the procedures governing the issuance of civil administrative orders, the assessment of civil administrative penalties and the suspension of, revocation of, or denial of an application to renew, any license issued pursuant to this chapter and the Act. This subchapter also governs the procedures for the submittal and review and grant or denial of requests for adjudicatory hearings on appeal from any administrative order, notice of civil administrative penalty assessment,

notice of suspension of license, notice of revocation of license, or notice of intent to deny an application to renew a license.

7:10A-2.5 Revocation of license or denial of application to renew a license

(a)-(b) (No change.)

(c) The Department shall deny an application to renew a licensee's license if that person has not accumulated the TCHs for license renewal in accordance with the provisions of N.J.A.C. 7:10A-1.9.

1. A licensee may request an adjudicatory hearing in accordance with the provisions of N.J.A.C. 7:10A-2.8 to contest a denial of an application to renew a license.

7:10A-2.6 Effect of suspension or revocation of license or denial of an application to renew a license

Any person whose license has been suspended, revoked, or not renewed pursuant to this subchapter shall not be considered a licensee and shall not conduct any activity as such until the license has been reinstated or a new license has been issued by the Department.

7:10A-2.7 Procedures for civil administrative orders, assessment of civil administrative penalties, suspension or revocation of license, or denial of an application to renew a license.

(a) Any order, notice of civil administrative penalty assessment, notice of suspension of license, notice of revocation of license, or notice of intent to deny an application to renew a license issued pursuant to this subchapter shall:

1.-8. (No change.)

9. In the case of a suspension of a license, revocation of a license, or denial of an application to renew a license, includes a description of the specific grounds for the suspension, revocation, or the denial of an application to renew; and

10. (No change.)

(b)-(c) (No change.)

7:10A-2.8 Procedures to request an adjudicatory hearing to contest an administrative order, administrative penalty assessment, suspension of license, revocation of license, or the denial of an application to renew a license

(a) To request an adjudicatory hearing to contest a n administrative order, civil administrative penalty assessment, suspension or revocation of license, or a denial of an application to renew a license, the person requesting the hearing (hereinafter "petitioner") shall:

1. Submit the original request in writing to:

Attention: Adjudicatory Hearing Requests

Office of Legal Affairs

Department of Environmental Protection  
PO Box 402  
Trenton, New Jersey 08625-0402; and

2. (No change.)

(b)-(e) (No change.)